

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Section 68.4(a) of the Commission's Rules)	WT Docket No. 01-309
Governing Hearing Aid Compatible Telephones)	RM - 8658
)	
)	
To: The Commission)	

**COMMENTS OF RURAL CELLULAR ASSOCIATION
IN SUPPORT OF PETITION FOR RECONSIDERATION**

Rural Cellular Association ("RCA"),^{1/} by its attorneys, respectfully submits these Comments in support of a Petition for Reconsideration ("Petition") filed on behalf of Public Service Cellular, Inc., Minnesota Southern Wireless Company dba HickoryTech, Northwest Missouri Cellular Limited Partnership, Illinois Valley Cellular RSA 2-I Limited Partnership, Illinois Valley Cellular RSA 2-II Limited Partnership, Illinois Valley Cellular RSA 2-III Limited Partnership and the Rural Telecommunications Group (collectively the "Petitioners") seeking limited reconsideration of the Report and Order ("Order")² in the above-captioned proceeding, released August 14, 2003, that, *inter alia*, imposed obligations on wireless carriers with respect to the offering of hearing aid compatible ("HAC") handsets for all air interfaces.

The Petition states that the Petitioners each operate Commercial Mobile Radio Service ("CMRS") facilities that make use of TDMA air interfaces. As Petitioners explained, the

^{1/} RCA is an association representing the interests of nearly 100 small and rural wireless licensees providing commercial services to subscribers throughout the nation. Its member companies provide service in more than 135 rural and small metropolitan markets where approximately 14.6 million people reside. RCA was formed in 1993 to address the distinctive issues facing these wireless service providers.

² *Report and Order* in WT Docket No. 01-309 (FCC 03-168), released August 14, 2003, (68 Fed. Reg. 64625, November 14, 2003).

decisions by certain large CMRS carriers to migrate away from TDMA to a GSM protocol has resulted in abandonment by network and handset equipment manufacturers of long-term support for products using the TDMA air interface. Petitioners are adapting to the change and are at various stages of planning and implementing an overbuild of TDMA networks with alternate digital air interfaces. At the same time there is an ongoing need to continue operating the TDMA networks beyond the effective date for the HAC rules.

Recognizing that the Order requires most CMRS carriers to make available at least two HAC handsets for each digital air interface in service, the Petitioners are duly concerned over the expected unavailability of HAC TDMA handsets at such time as the rules would require Petitioners to offer such handsets if they continue to make use of their legacy TDMA networks. Many RCA members have the same concerns as Petitioners³ because of the continuing widespread use of TDMA networks in rural areas of the country where it has not been feasible to replace equipment as quickly as is being done by the largest CMRS carriers serving the largest markets.

Inquiry of handset manufacturers on RCA's behalf indicates that at least one major handset maker will continue to produce at least three models of TDMA phones in 2004, and that manufacturing is likely to continue into 2005 subject to demand. Due to the varied pace of carrier overbuilds resulting from economic circumstances and other carrier-specific factors, RCA anticipates that a significant number of small wireless carriers will continue to have a need to make TDMA handsets available to customers who do not have a need for a HAC handset.

³ Some of RCA's members are among the Petitioners, however RCA recognizes and asks the Commission to recognize that the issue presented by Petitioners is broad-based in that it affects dozens of small, rural CMRS carriers who plan or are in the process of accomplishing network overbuilds but who are not yet ready and able to abandon TDMA.

Petitioners accurately describe the situation that small rural carriers, despite their number, do not have the market power to influence product development. It is unlikely that handset manufacturers will perceive a large enough market for HAC TDMA handsets among the rural carriers to invest in the development and production of such phones. RCA notes that small rural carriers deployed TDMA networks in the 1990s to help fulfil the goal of bringing nationwide-compatible wireless service to their rural areas. When large carriers faced system capacity problems they elected to convert digital networks to other air interfaces. Meanwhile, rural area systems and most RCA members have not faced the same types of capacity issues, and yet, they plan to upgrade networks following the lead of large carriers in order to provide service to roamers and to bring new technologies to their rural area subscribers. But the changes cannot be accomplished overnight or even in a few years in all rural areas.

RCA supports the request by Petitioners that the Commission reconsider the HAC rules with respect to carrier obligations and tie those carrier obligations to the actual availability of HAC handsets for each digital air interface. There is not a public benefit in forcing carriers to discontinue sale of TDMA digital handsets just because HAC TDMA handsets are not available. The Commission may address this issue either by creating an exception and allowing the sale of TDMA handsets without regard to HAC, or by exempting TDMA networks from the HAC requirements entirely.

RCA respectfully requests that the Commission take official notice of the problem faced by rural wireless carriers that operate TDMA networks and the inability of those carriers to assure the availability of HAC TDMA handsets for sale to customers. RCA requests that the Commission grant relief as requested by Petitioners on a class-wide basis rather than according to a case-by-case review of individual waiver requests. The Commission should conclude that

HAC TDMA handsets are not likely to be developed and distributed by the major handset manufacturers due to lack of demand from large CMRS licensees, and that an exception to the handset offering requirement is justifiable under the circumstances.

Respectfully submitted,

RURAL CELLULAR ASSOCIATION



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November 26, 2003

CERTIFICATE OF SERVICE

I, Daniel Ladmirault, an employee in the law offices of Lukas, Nace, Gutierrez & Sachs, Chartered, do hereby certify that I have on this 26th day of November, 2003, sent by U.S. mail, first-class delivery, a copy of the foregoing Comments to the following:

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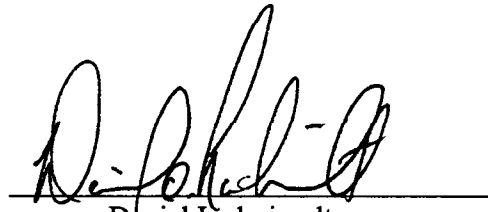
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